

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 15,548
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for medical benefits under the Vermont Health Access Plan (VHAP). The issue is whether the petitioner is "uninsured or underinsured" within the meaning of the pertinent regulations. The following facts are based on the representations of the parties.

FINDINGS OF FACT

1. The petitioner is a 67-year-old married man who is retired. The Department denied the applications of the petitioner and his wife for Medicaid because they have resources of over \$200,000 in bank accounts and other investments. The petitioner does not dispute this decision.

2. The Department granted the application of the petitioner's wife for VHAP benefits because that program, unlike Medicaid, considers only income, not resources. The petitioner's wife does not have any other health insurance.

3. The Department granted the petitioner's application for VHAP-Pharmacy benefits based on the petitioner's income and the fact that he does not have any insurance that covers prescriptions.

4. The Department denied the petitioner's application for regular VHAP benefits (i.e., primarily hospitalization and physician services) because it determined that the petitioner was eligible for Medicare for this coverage.

5. The petitioner admits that he has Medicare Part A coverage, which includes hospitalization. However, up until now he has chosen not to enroll for Medicare Part B, which mostly covers physician outpatient services.

6. The petitioner does not dispute the Department's representation that he would qualify for Medicare Part B anytime he were to be enrolled for that coverage (i.e., he is over 65 years old, a U.S. citizen, and is eligible for Part A¹).

7. The parties agree, however, that the enrollment periods for Medicare Part B are set by statute² as running from January 1 through March 31 of any calendar year, and that coverage for anyone who enrolls during that period commences as of July 1 of that year. Thus, the petitioner cannot now enroll for Medicare Part B until January 1, 1999; and his coverage would not begin until July 1, 1999. The petitioner maintains he should be eligible for VHAP until July 1, 1999, because he is "underinsured" until that time.

¹See 42 U.S.C. § 1395o.

²See 42 U.S.C. § 1395p.

ORDER

The Department's decision is affirmed.

REASONS

The VHAP regulations (Welfare Assistance Manual [WAM] § 4001) provide, inter alia, that an individual must be "uninsured or underinsured" to qualify for VHAP. § 4001.2 includes the following definition of "uninsured or underinsured":

An individual meets this requirement if he/she does not qualify for Medicare, does not have other insurance that includes both hospital and physician services, and did not have such insurance within the 12 months prior to the month of application. The requirement that the applicant not have had such insurance during this 12-month period is waived if the department has agreed to pay all costs of insurance because it has found it is cost-effective to do so or if the individual lost access to employer-sponsored insurance during this period because of:

- (a) loss of employment, or
- (b) death or divorce, or
- (c) loss of eligibility for coverage as a dependent under a policy held by the individual's parent(s).

In addition, students under the age of 23 enrolled in a program of an institution of higher education in Vermont are not eligible for coverage if they have elected not to purchase health insurance covering both hospital and physician services offered by their educational institution or if they are eligible for coverage through the policy held by their parent(s), but their parents have elected not to purchase this coverage.

The Department maintains that the petitioner is ineligible for VHAP under the above regulation because he "qualifies" for Medicare and could be receiving Part B

coverage (along with the Part A coverage he already has) as soon as he chooses to enroll. The petitioner argues that because he cannot now obtain coverage under Part B until next July 1 at the earliest, he cannot be considered to be "qualified" for that coverage. A plain reading of the above regulation, however, supports the Department's position.

There is no question that the petitioner meets all the eligibility criteria for Medicare (see supra). The fact that he has chosen not to enroll for all its benefits does not mean that he is not "qualified" to receive them. The regulation makes no distinction between Part A and Part B Medicare coverage. It also uses the term "qualif(ied)" when referring to Medicare, as opposed to the word "have" when referring to "other insurance". It is clear from this distinction that applicants for VHAP (except, specifically, students under age 23 who attend institutions that offer such coverage) are not required to purchase private insurance, but are expected to enroll for Medicare if they are eligible.

Inasmuch as the petitioner must be considered "qualified" for Medicare Part B coverage, it must be concluded that he is not "underinsured" for purposes of VHAP. The Department's decision must, therefore, be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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